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SUBJECT: U.S. NOTE ON TONNAGE MEASUREMENT

PLEASE TRANSMIT THE FOLLOWING NOTE TO APPROPRIATE IMCO
AUTHORITIES:

QUOTE

MATTERS RELATED TO THE IMPACT OF THE CONVENTION ON TONNAGE
MEASUREMENT, 1969, ON SPECIAL TYPES OF SHIPS

NOTE BY THE UNITED STATES

I. INTRODUCTION

1.1 THE UNITED STATES DELEGATION, AT THE 34TH SESSION OF
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THE MARITIME SAFETY COMMITTEE, AGREED TO SUBMIT A PAPER

RELATING TO THE IMPACT OF THE 1969 TONNAGE CONVENTION ON SPECIAL TYPES OF SHIPS FOR CONSIDERATION OF THE COMMITTEE AT ITS 35TH SESSION. AS AGREED, THIS PAPER OUTLINES PROBLEMS ENCOUNTERED RELATING TO ACCEPTANCE OF THE 1969 TONNAGE CONVENTION BY THE UNITED STATES AND IT DESCRIBES PROCEDURES ENVISAGED TO COPE WITH THOSE PROBLEMS.

1.2 THERE IS BROAD SUPPORT IN THE UNITED STATES FOR ACCEPTANCE OF THE 1969 TONNAGE CONVENTION. NEVERTHELESS, THERE IS ALSO GENUINE CONCERN ABOUT THE IMPACT OF THE CONVENTION SYSTEM OF TONNAGE MEASUREMENT ON SPECIAL TYPES OF SHIPS. IF THE CONVENTION WERE TO COME INTO FORCE WITHOUT SOME ACCOMMODATION, SUCH SHIPS WOULD BE REQUIRED BY LAW TO BECOME SUBJECT TO REGULATIONS TO WHICH THEY ARE NOT NOW SUBJECT MERELY BECAUSE THEIR GROSS TONNAGES WOULD BE HIGHER.

1.3 SINCE THE GROSS TONNAGE OF A SHIP IS USUALLY A GOOD INDICATION OF ITS SIZE, GROSS TONNAGE VALUES HAVE BEEN USED IN VARIOUS OTHER CONVENTIONS, LAWS AND REGULATIONS FOR DETERMINING THEIR APPLICABILITY. BECAUSE SHIPS WITH TONNAGES HIGHER THAN THE BOUNDARIES COST MORE TO BUILD AND OPERATE, OWNERS OFTEN HAVE THEIR SHIPS BUILT TO MEASURE LESS THAN ONE OR ANOTHER OF THESE BOUNDARY TONNAGES. THE VARIOUS NATIONAL TONNAGE MEASUREMENT RULES NOW IN EFFECT CONTAIN SEVERAL PROVISIONS WHICH PERMIT A SHIP TO BE BUILT WITH LARGE AMOUNTS OF SPACE EXCLUDED FROM GROSS TONNAGE. NATURALLY SHIPOWNERS FREQUENTLY USE THOSE PROVISIONS AS MEANS TO KEEP A SHIP'S MEASUREMENT BELOW BOUNDARY TONNAGES. THERE IS NO HARD EVIDENCE SO FAR AS WE KNOW, THAT SHIPS SO BUILT DEFEAT THE BASIC INTENT OF THE VARIOUS CONVENTIONS, LAWS AND REGULATIONS.

1.4 AS INDICATED IN THE ICS/ISF PAPER (MSC XXXIV/15), THE 1969 TONNAGE CONFERENCE ADOPTED A SYSTEM OF MEASUREMENT WHICH WOULD PRODUCE GROSS AND NET TONNAGES "NOT GREATLY DIFFERENT FROM" THOSE PRODUCED BY APPLYING THE EXISTING NATIONAL SYSTEMS. NEVERTHELESS, IN TRYING TO MATCH TONNAGES COMPUTED UNDER NUMEROUS NATIONAL SYSTEMS OF

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MEASUREMENT, EACH WITH SEVERAL MEANS AVAILABLE TO REDUCE TONNAGES, IT IS INEVITABLE THAT A NUMBER OF SPECIAL TYPES OF SHIPS WOULD RECEIVE SUBSTANTIALLY HIGHER TONNAGES WHEN MEASURED UNDER THE NEW SYSTEM.

1.5 THE 1969 CONFERENCE REASONED THAT WITHOUT GOING TO EXTREMES, THE NEW CONVENTION SHOULD NOT DISTURB THE STATUS QUO BY CAUSING THE SCOPE OF THE REQUIREMENTS THAT APPLY TO

CLASSES OF SHIPS OR TO INDIVIDUAL SHIPS TO CHANGE IN ANY SIGNIFICANT WAY. THE CONFERENCE ENDEAVOURED TO ENSURE THIS STATUS QUO NOT ONLY BY PROVIDING FOR TONNAGES AS CLOSE AS POSSIBLE TO EXISTING TONNAGES BUT ALSO BY PROVIDING AT ARTICLE 3(2)(D) FOR A TWELVE-YEAR PERIOD AFTER THE DATE ON WHICH THE CONVENTION COMES INTO FORCE DURING WHICH EXISTING SHIPS COULD RETAIN THEIR EXISTING TONNAGES FOR ALL PURPOSES. IT ALSO PROVIDED FOR EXISTING SHIPS TO RETAIN THEIR THEN EXISTING TONNAGES BEYOND THE TWELVE-YEAR TRANSITIONAL PERIOD FOR PURPOSES OF DETERMINING THE APPLICABILITY OF OTHER EXISTING INTERNATIONAL CONVENTIONS TO THOSE SHIPS.

II. PROBLEMS

2.1 ALTHOUGH THE PROVISIONS OF ARTICLE 3(2) WOULD ACCOMMODATE MOST EXISTING SHIPS FOR ALL PURPOSES DURING MOST OF THEIR REMAINING LIVES, THOSE PROVISIONS PUT EXISTING SHIPS WHICH UNDERGO SUBSTANTIAL TONNAGE CHANGES AND SHIPS OF SIMILAR SIZES AND CONSTRUCTION IN THE UNCOMPETITIVE POSITION OF HAVING THEIR NEW, HIGHER CONVENTION TONNAGES USED IMMEDIATELY AS BASES FOR DETERMINING THE APPLICABILITY OF THE REQUIREMENTS OF OTHER CONVENTIONS AND FOR ASSESSMENT OF CHARGES AS WELL.

2.2 SIMILAR PROBLEMS EXIST WITH RESPECT TO BASES FOR DETERMINING THE APPLICABILITY OF STANDARDS RELATING TO DOMESTIC LAWS AND REGULATIONS WITH TONNAGE BOUNDARIES. THOSE STANDARDS APPLY WHETHER A SHIP IS ON AN INTERNATIONAL VOYAGE OR NOT. HOWEVER, A GOVERNMENT PARTY TO THE TONNAGE CONVENTION COULD UNILATERALLY SOLVE ITS PROBLEMS RELATING TO DOMESTIC REQUIREMENTS BUT COULD NOT DO THAT FOR PROBLEMS RELATING TO INTERNATIONAL CONVENTIONS.

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III. PROCEDURES ENVISAGED TO COPE WITH THE SITUATION

3.1 IN THE UNITED STATES, THE COAST GUARD WILL BE RESPONSIBLE FOR DRAFTING THE LEGISLATION NECESSARY TO IMPLEMENT THE CONVENTION. THE COAST GUARD PLANS SO TO DRAFT THE LEGISLATION THAT UPON APPLICATION BY THE OWNER OF A SHIP MEASURES ACCORDING TO THE CONVENTION SYSTEM, THE SHIP WOULD ALSO BE MEASURED ACCORDING TO THE PRESENT SYSTEM. THE GROSS TONNAGE ASSIGNED AS A RESULT OF MEASUREMENT UNDER THE PRESENT SYSTEM WOULD BE USED TO DETERMINE THE APPLICABILITY TO THE SHIP OF UNITED STATES DOMESTIC STANDARDS RELATING TO INSPECTION, MANNING AND LICENSING. THE DOMESTIC STANDARDS WOULD THEN BE EXAMINED CRITICALLY AND INDIVIDUALLY TO DETERMINE WHETHER CONVENTION GROSS TONNAGE WITH THE SAME

OR HIGHER NUMERICAL VALUES SHOULD REPLACE THE PRESENT GROSS TONNAGE AS A LIMITING PARAMETER TO DETERMINE THE APPLICABILITY OF THE STANDARDS OR WHETHER, IN SOME CASES, SOME DIFFERENT PARAMETER NOT NECESSARILY OF SIZE, SHOULD BE ADOPTED.

3.2 A SIMILAR PROCEDURE MIGHT BE ADOPTED TO COPE WITH THE SIMILAR SITUATION WITH RESPECT TO DETERMINING THE APPLICABILITY OF EXISTING INTERNATIONAL CONVENTIONS WITH TONNAGE BOUNDARIES. OF COURSE, GOVERNMENTS COULD NOT UNILATERALLY ADOPT SUCH A PROCEDURE BUT THEY SHOULD BE ABLE TO DEVELOP AN ARRANGEMENT WHICH WOULD PROVIDE THE TIME FOR GAINING THE NECESSARY EXPERIENCE AND KNOWLEDGE TO DRAFT A PERMANENT SOLUTION TO THE PROBLEM.

IV. PROPOSALS BY THE U.S. DELEGATION FOR THE COMMITTEE

4.1 SINCE THE COMMITTEE, AT ITS 34TH SESSION, AGREED TO ESTABLISH AT ITS 35TH SESSION AN AD HOC GROUP TO DEAL WITH THE MATTER IN MORE DETAIL, THE UNITED STATES DELEGATION PROPOSES THAT EARLY IN THE SESSION THE COMMITTEE INSTRUCT THE AD HOC GROUP AS TO ITS TERMS OF REFERENCE.

4.2 THE TERMS OF REFERENCE SHOULD INCLUDE INSTRUCTIONS:

(A) AS A MATTER OF PRIORITY TO SEEK AN INTERIM SOLUTION THAT WOULD, AS EQUITABLY AS POSSIBLE, MAINTAIN FOR UNCLASSIFIED

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AN AGREED LIMITED PERIOD, THE STATUS QUO WITH RESPECT TO THE APPLICABILITY OF CERTAIN INTERNATIONAL CONVENTIONS

WITH TONNAGE BOUNDARIES TO TYPES OF SHIPS CURRENTLY BEING BUILT AND OPERATED;

(P) TO ASSESS THE MAGNITUDE OF THE PROBLEM AND TO ESTIMATE THE FEASIBILITY AND TIME FOR SOLUTION;

(C) TO SEEK A PERMANENT SOLUTION IN ACCORDANCE WITH THE AIMS OF THE COMMITTEE THAT WOULD TREAT ALL TYPES OF SHIPS FAIRLY WITHOUT COMPROMISING THE SAFETY OF PASSENGERS CARRIED, THE CREW, THE ENVIRONMENT, THE SHIP ITSELF AND THE CARGO;

(D) TO AVOID ANY RECOMMENDATION THAT WOULD WEAKEN THE 1969 TONNAGE CONVENTION; AND

(E) TO REPORT TO THE COMMITTEE IN TIME THAT THE ACTIVITIES OF THE GROUP MAY BE CONSIDERED FOR THE COMMITTEE REPORT.

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